

HOUSE No. 2567

By Mr. LeDuc of Marlborough, petition of Stephen P. LeDuc and Pamela P. Resor relative to real estate tax exemptions for certain charitable organizations. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO CITIES AND TOWNS AND TAX EXEMPT PROPERTIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 5 of chapter 59 of the General Laws is hereby amended
2 by inserting after clause Third, as appearing in the 2000 Official
3 Edition, the following clause:—

4 Third A, Real estate which is exempt from taxation under the
5 provisions of clause Third of section 5, shall not be sold for or
6 converted to residential, industrial or commercial use while so
7 exempt, or within two years thereafter, unless the city or town in
8 which such real estate is located has been notified of intent to sell
9 for or convert to such other use. The filing of a definitive subdivi-
10 sion plan under the provisions of chapter 41 or an application for
11 a special permit or variance under the provisions of chapter 40A
12 for residential, commercial or industrial use shall constitute a con-
13 version of use for purposes of this clause.

14 Any such notice of intent to sell for or convert to such other use
15 shall be accompanied by a certified copy of an executed purchase
16 and sale contract or other agreement between the owner and the
17 proposed buyer specifying the purchase price and all terms and
18 conditions of such proposed sale. Any such notice of intent to sell
19 or convert shall be accompanied by a statement of intent to sell or
20 convert such land, a statement of the proposed use of such land,
21 the location and acreage of such land as shown on map drawn at
22 the scale of the assessors map in the city or town in which the
23 land is situated, the name, address and telephone number of the
24 owner of the real estate and his attorney, if any, and the name,

25 address and telephone number of the proposed buyer and his
26 attorney, if any. Such notice of intent shall be sent by the owner of
27 the real estate by certified mail to the mayor and city council of a
28 city, or to the board of selectmen of a town, and in the case of
29 either a city or a town, to its board of assessors, and to its plan-
30 ning board and conservation commission, if any. An affidavit by a
31 notary public that he has mailed a notice of intent on behalf of an
32 owner of real estate shall be conclusive evidence that he has so
33 mailed such notice in the manner and at the time specified in such
34 affidavit and each such affidavit shall have attached to it a copy of
35 the notice of intention to which it relates. Such notice of intent
36 shall be deemed to have been duly mailed to the parties specified
37 above if addressed to them in care of the town or city clerk; and in
38 the case of notice to a city council or board or commission,
39 addressed to it as such entity.

40 For a period of 120 days subsequent to such notice, said city or
41 town shall have, in the case of intended sale, a first refusal option
42 to meet a bona fide offer to purchase said real estate, or, in the
43 case of intended or determined conversion not involving sale, an
44 option to purchase said real estate at full and fair market value to
45 be determined by an impartial appraisal. The option period shall
46 run from the day following latest date of deposit in the United
47 States mail of any such notice which complies with the provisions
48 of this clause.

49 For the purposes of this clause, a bona fide offer to purchase
50 shall mean a good faith offer, not dependent on conditions or con-
51 tingencies relating to the suitability of the property for residential,
52 industrial or commercial use, made by a party unaffiliated with the
53 owner of the real estate for a fixed consideration payable upon
54 delivery of a deed. If the purchase and sale contract or other
55 agreement accompanying a notice of intent to sell does not con-
56 tain such an offer, the city or town shall have an option to pur-
57 chase said real estate at fair market value as determined by an
58 impartial appraisal. Said bona fide offer shall refer only to the
59 parcel or parcels of real estate to which the notice of intent to sell
60 or convert refers. After a public hearing, said city or town may
61 assign its option to a nonprofit conservation organization or to the
62 commonwealth under such terms and conditions as the mayor or
63 board of selectmen deem appropriate. Notice of said public

64 hearing shall be given in accordance with the provisions of section
65 23B of chapter 39. During such 120 day period, said city or town
66 or its assignees shall have the right, at reasonable times and upon
67 reasonable notice, to enter upon said real estate for the purpose of
68 surveying and inspecting said real estate, including the taking of
69 soil and water samples.

70 No sale or conversion of such real estate shall be consummated
71 unless and until either said option period shall have expired or the
72 landowner shall have been notified by the mayor or board of
73 selectmen of the city or town in question that said option will not
74 be exercised; provided, further, that no such sale shall be consum-
75 mated if the terms of such sale differ in any material way from the
76 terms of the purchase and sale contract or other agreement which
77 accompanied the bona fide offer to purchase.

78 Such option may be exercised only by written notice signed by
79 the mayor or board of selectmen, mailed to the owner of the real
80 estate by certified mail at such address as may be specified in his
81 notice of intent, and recorded with the registry of deeds, within
82 the option period. Said notice shall include a proposed purchase
83 and sale contract or other agreement between the city, town or its
84 assignee and the owner of the real estate which, if executed, shall
85 be fulfilled within a period of not more than 60 days from the date
86 such contract or agreement is endorsed by the owner of the real
87 estate and returned by certified mail to the mayor, board of
88 selectmen or assignee. If the municipality's option has been
89 assigned to a nonprofit conservation organization or to the com-
90 monwealth as provided in this clause, such written notice shall
91 state the name and address of said organization or the agency of
92 the commonwealth which will exercise the option in addition to
93 the terms and conditions of said assignment. Failure to record said
94 notice or assignment shall be conclusive evidence that the city or
95 town has not exercised its option.

96 Each notice of exercise of the option, notice that the option will
97 not be exercised and notice of assignment shall contain the name
98 of the record owner of the real estate and a description of the
99 premises to be sold or converted adequate for identification
100 thereof and shall be recorded at the registry of deeds.

101 The provisions of this clause shall not be applicable with
102 respect to a mortgage foreclosure sale; but the holder of a mort-

103 gage shall, at least 90 days before a foreclosure sale, send written
104 notice of the time and place of such sale to the parties in the
105 manner above provided in this clause for notice of intent to sell or
106 convert, and the giving of such notice may be established by an
107 affidavit as above set forth.